DOCUMENT RESUME

ED 398 090 SO 026 236

AUTHOR Valentine, Martha
TITLE We the Jury: A Simulation for the Classroom. Instructor's Guide.
INSTITUTION Constitutional Rights Foundation, Los Angeles, Calif.
PUB DATE 87
NOTE 31p.
AVAILABLE FROM Zenger Publications, Inc., Gateway Station 802, Culver City, CA 90232.
PUB TYPE Guides - Classroom Use - Instructional Materials (For Learner) (051) -- Guides - Classroom Use - Teaching Guides (For Teacher) (052)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Adult Education; *Citizen Participation; *Citizenship Education; Civil Law; Civil Liberties; *Constitutional Law; *Court Litigation; Courts; Criminal Law; Due Process; Instructional Materials; *Juries; *Law Related Education; Secondary Education; Social Studies
IDENTIFIERS Bill of Rights; Constitutional Rights Foundation; Fourteenth Amendment; Mock Trials; Seventh Amendment; Sixth Amendment; *Street Law; United States Constitution

ABSTRACT

Designed to provide students and adults with a learning experience related to the jury system, this game focuses on the jury selection process. In doing so, the game examines an important element of a fair trial--the right of the accused to be judged by an impartial jury. The game is designed for four class periods and can be used with a class of 30-35 students. Following a discussion of the background of the jury process and its institutionalization in the Constitution, students select a jury for hypothetical cases. The objectives of the game are to enable students to: (1) describe the jury selection procedure; (2) describe the rights of the accused regarding trial by jury; (3) develop questions that probe underlying attitudes and values; (4) participate in and evaluate a mock jury selection exercise; and (5) demonstrate a willingness to serve on jury duty. Instructor's guide and student handouts are provided. (LH)

**********
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
**********

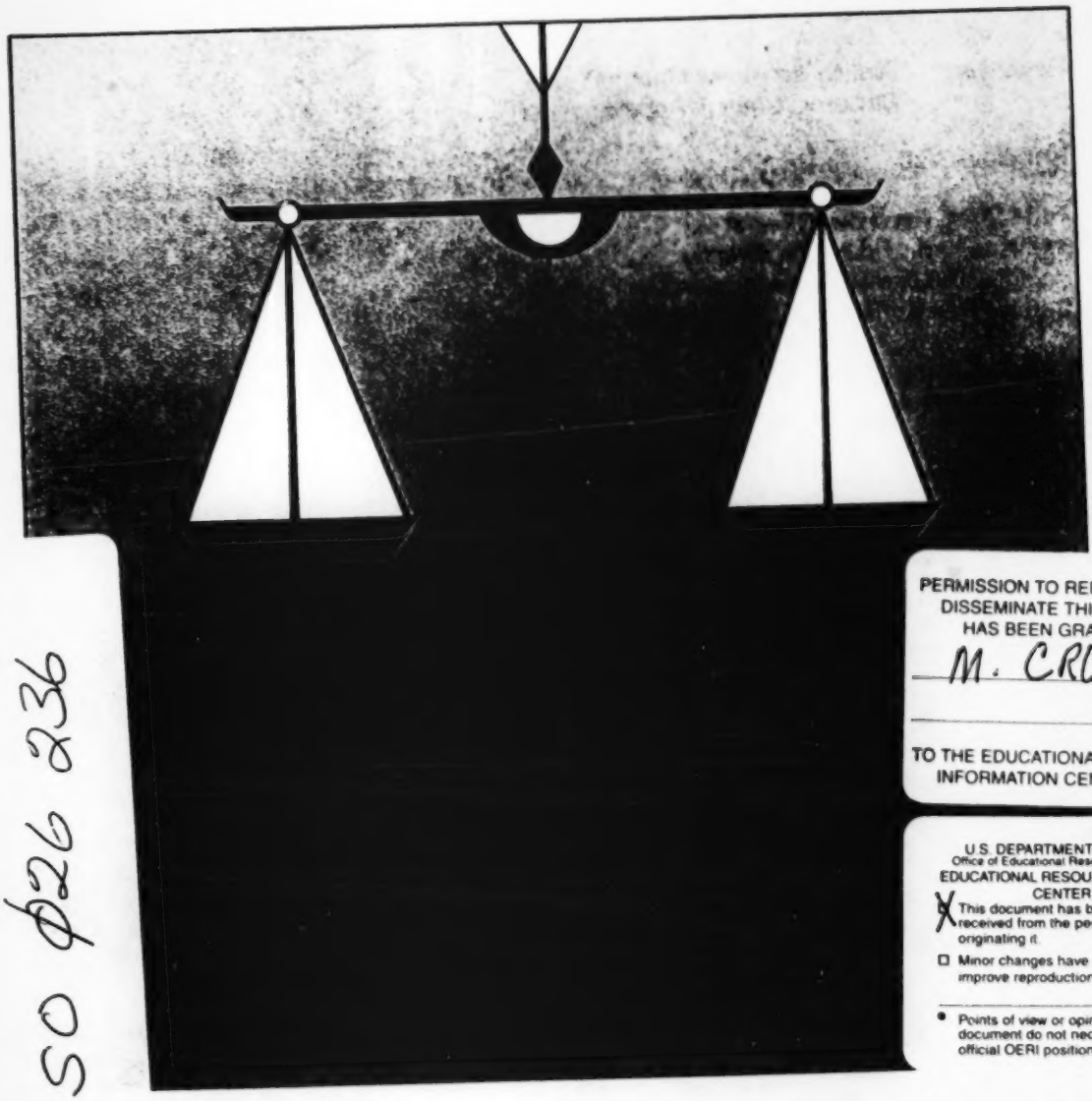
ED 398 090

Developed by: Constitutional Rights Foundation

**INSTRUCTOR'S GUIDE**

# WE THE JURY

## A Simulation for the Classroom



SO 026 236

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY
M. CRODDY

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
X This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

©1987: CONSTITUTIONAL RIGHTS FOUNDATION

Published by:
zenger publications, inc. GATEWAY STATION 802 • CULVER CITY • CALIFORNIA 90232



BEST COPY AVAILABLE

**Harry L. Usher**, President, Constitutional Rights Foundation Board of Directors

**Jerome C. Byrne**, Chairman, Constitutional Rights Foundation Publications Committee

**Writer:** Martha Valentine

**Editors:** Marshall Croddy
Paul Von Blum

**Reviewer:** Justice Ronald M. George, California Court of Appeal

**Principal Staff:**

Todd Clark, Executive Director
Kathleen Kirby, Education Director
Hal Ellis, Director of Administration and Finance
Carolyn Pereira, Director, CRF Chicago

**Design:** Lanning Gold
**Editorial Assistant:** Stacy Armonda

©1987: CONSTITUTIONAL RIGHTS FOUNDATION

Published by:

zenger publications, inc.
GATEWAY STATION 802 ● CULVER CITY ● CALIFORNIA 90232

# TABLE OF CONTENTS


| | INSTRUCTOR'S GUIDE | STUDENT MATERIALS |
|---|---|---|
| Before the Game Begins | Introduction | Reading (HO #1) |
| **Day One:** Introduction | | |
| The American Jury System<br>History<br>Constitution<br>A Jury of One's Peers<br>Juror Qualifications<br>Exemptions | Discussion Guide | |
| *Voir Dire* Procedures<br>Selecting a Jury<br>Prejudice and Discrimination<br>Challenges<br>Things to Consider | Discussion Guide | Reading (HO# 2) |
| How to Prepare Questions | Discussion Guide | Worksheet (HO#3) |
| **Day Two:** *Voir Dire* Activity | | |
| Activity<br>The Courtroom | Instructions<br>Discussion Guide | Roles (HO #4-11)<br>Diagram and Description (HO #12)<br>Cases (HO #13)<br>Sequence (HO #14) |
| **Day Three:** *Voir Dire* Conclusion | | |
| **Day Four:** Debriefing | | |
| Debriefing<br>How to Use a Resource Person<br>Vocabulary Review<br>Follow-up Activities | Discussion Guide<br>Classroom Suggestions<br>Answers<br>Suggestions | Worksheet (HO #15) |

# INTRODUCTION

It has often been noted that American citizens strongly believe in trial by jury but some no longer share this belief. Yet it is the institution of jury service that most often brings the citizen into direct participation in the administration of justice. It is the individual juror, operating in a democratic setting and following individual conscience, who weighs the evidence to decide guilt and liability and sometimes the punishment or damages.

Much of the seeming reluctance to serve on juries may be due to a general lack of knowledge among the American public of the procedures and problems of the jury system. This game has been designed to provide students and adults with a learning experience related to the jury system. By focusing on the jury selection process, this activity examines an important element of a fair trial — the right of an accused person to be judged by an impartial jury.

*We the Jury* is designed for four class periods and can be used with a class of 30-35 students. The activity begins with a discussion of the background of the jury process and its institutionalization in the Constitution. Students then participate in a "*voir dire*" exercise as they select a jury for hypothetical cases. In the process, students explore the nature of prejudice and deal with such crucial questions as:

- Is it possible to be unbiased?
- Do lawyers want an unbiased jury or do they choose jurors biased toward their side? Should they?
- What is a "jury of one's peers"?
- How can questioning techniques reveal a person's biases?
- Why is the jury selection process so important in trial strategy?

The jury selection activity and discussions are designed to help students develop critical thinking skills and questioning strategies.

**OBJECTIVES:** Students will be able to:

**1.** describe the jury selection procedure.
**2.** describe the rights of the accused regarding trial by jury.
**3.** develop questions that probe underlying attitudes and values.
**4.** participate in and evaluate a "*voir dire*" exercise.
**5.** demonstrate a willingness to serve on jury duty.

# INSTRUCTOR'S GUIDE

This instructor's guide provides directions for the activities, discussion questions and a debriefing guide for the activity. Materials in the student's guide are designed to be easily duplicated and distributed. *We the Jury* takes four instructional days to complete: Introduction to *Voir Dire* (Day One); Jury Selection Activity (Days Two and Three); and Debriefing (Day Four).

## BEFORE THE GAME BEGINS:

Students should read Handout #1: "The American Jury System" as homework before Day One of the activity.

## DAY ONE: INTRODUCTION

**Before Class:** Duplicate class sets of Handouts #2-3

**Classroom Suggestions:**

**1.** Discussion of "The American Jury System" (Handout #1) students have read as homework. It contains a brief description of the history of the American jury system, its incorporation into the Constitution and Bill of Rights and a definition of "*voir dire*." Review this material and make sure students understand it before continuing the activity. Discussion questions might include:

a. What are the rights of the citizen regarding jury trials?
b. Why is the process called "*voir dire*"?
c. What are the differences between federal and state procedures?
d. What is a jury of one's peers? Whom would you want on your jury if you were on trial?
e. What would be a good source for finding prospective jurors that reflects the community and is fair to the accused? Have students brainstorm alternative ways of finding jurors.
f. Should anyone be exempt from jury duty? Under what conditions?

**2.** Distribute Handout #2: "*Voir Dire* Procedure" for students to read. Explain that they will be involved in choosing a jury in the next class period. Discussion of this reading might include the following:

a. Is everyone prejudiced and/or biased? How is it possible to have unbiased juries? If not, can a biased juror still render a fair verdict?
b. It is difficult to get people to admit their prejudices in public. How might a lawyer uncover people's biases?
c. As a lawyer, what kinds of information would you need from a juror? What information might be a violation of a juror's privacy?
d. What are the different challenges used to exclude jurors? Give an example of each.
e. Some lawyers say the case is won during the jury selection process. Should you choose a jury that is unbiased or one that is sympathetic toward your side?
f. What is the adversary process? How does it work to insure that juries are unbiased? You might use the next handout as a tool for explaining the legal adversary system.

**3.** Distribute Handout #3: "How to Prepare Effective Questions" to be read and completed as homework. Make sure students understand the assignment and can differentiate between criminal and civil trials. This is a good exercise for all students, not just those who will take the role of attorneys in the class exercise.

## DAY TWO: *VOIR DIRE* ACTIVITY

**Before Class:** Carefully review and duplicate Handouts #4-14 as needed. Decide whether you will ask for volunteers or assign roles. The simulation is designed for 30-35 students. If you have a smaller group, cut down the number of jurors; if you have more students, increase the number of observers and attorneys. Roles needed:

1 Judge
2-4 Attorneys (½ prosecution/plaintiff; ½ defense)
1 Defendant
1 Plaintiff (civil case only)
1 Bailiff
1 Court Clerk
20 Jurors
2+ Observers (remainder of class)

Both a criminal and a civil case are included. You will not be able to complete both cases in one class period. Suggestions for using a lawyer as a resource person can be found on page 6 of this guide.

Before beginning the activity, arrange the classroom to resemble a courtroom (see diagram on Student Handout #12).

**Classroom Suggestions:**

**1.** Distribute Handouts 4 through 14 as directed. Students should sit in appropriate places according to their roles. Using Handout 12, "The Courtroom," review each party in the courtroom — where each sits; why; what each is responsible for doing. If students are unfamiliar with the adversary relationship, they may need to discuss it before they are ready to continue. Discussion should address the rationale and arguments for and against it. Does it serve justice?

**2.** Allow 20-25 minutes for students to prepare for the *voir dire* activity, using their role sheets. Circulate among the class and make sure students understand what is expected of them. Give a copy of the case to judge, court clerk, attorneys and defendant (and plaintiff if it is a civil case). Remind them not to share this information with jurors.

a. There are 24 juror roles provided, but you need not use all of them, depending on class size. Students should study the biography provided and be able to respond to each question as they believe their characters would.
b. Remind student attorneys to refer to guidelines for questioning jurors and the sample questions they drew up as homework.
c. The object of the game is to select a jury of 6, 8, 10 or 12 jurors, plus one alternate, all of whom will render a fair verdict in the case. The final number on the jury depends on class size, time, how many jurors are eliminated during questioning. *We the Jury* simulates the jury selection process; **there is no intention to re-create the process exactly as it varies from jurisdiction to jurisdiction**

**3.** Distribute class set of Handout #14: "*Voir Dire* Sequence."

**4.** Allow students to direct the sequence, assisting them only as necessary (see Handout #14). During this class period, students should complete the judge's *voir dire*. Begin the attorneys' questioning of prospective jurors if time allows.

## DAY THREE: *VOIR DIRE* ACTIVITY (continued)

During this class period, students should finish the attorneys' *voir dire* and complete the jury selection process.

## DAY FOUR: DEBRIEFING

**Before Class:** Duplicate a class set of Handout #15: "Vocabulary Worksheet." This can be used as a formal or informal review at any point. Answers can be found on page 7 of this instructor's guide.

**Classroom Suggestions:** Students should debrief the activity to evaluate what they learned. Observers should begin by summarizing and evaluating the activity. Discussion questions should include the following:

**1.** Was a fair jury chosen? Why or why not? Was this a jury of the defendant's peers?

**2.** Who was excluded and why? Were any of the jurors biased? Were they excluded? How did jurors feel about being chosen or excused?

**3.** What was the case about? In a criminal case, why does the victim have no voice in the jury selection? What kinds of jurors were the attorneys looking for? What strategies did the attorneys use to win the case? Were they successful?

**4.** Did the attorneys ask fair and good questions? Was any of the information an invasion of jurors' privacy?

**5.** Which side do you think will win the case based on the jury selected? Why?

**6.** Should there be professional juries or should we continue using average citizens? Why or why not?

**7.** Do you think juries should have fewer than 12 members? What are the arguments for or against it?

**8.** Should juries always be unanimous or have majority verdicts?

**9.** What are the most important considerations in choosing a jury? (Sex, race, religion, social class, age, occupation, family size, flexibility in thinking, other.)

## HOW TO USE A RESOURCE PERSON IN THE CLASSROOM:

A practicing attorney can be a most valuable resource person in playing *We the Jury* realistically. Contact the local bar association for the names of attorneys who will make classroom visits. Suggestions for using an attorney in this activity include:

**1.** Have the attorney play the role of the judge during the simulation.
**2.** Invite the attorney to participate in a question-and-answer session on jury trials and jury selection preceding or following the simulation.
**3.** Ask the attorney to assist students in their *voir dire* questioning.
**4.** The attorney could act as an observer and lead the debriefing discussion, comparing the classroom exercise with experiences in real courtrooms.
**5.** The attorney could introduce the game, summarizing the purpose and procedures of a jury trial.
**6.** An attorney could lead follow-up discussions on various topics related to jury trials, such as requirements/conventions of jury size, unanimity.
**7.** Attorneys might address the issue of bias — how they uncover biases; whether they want an unbiased or biased jury.

## VOCABULARY REVIEW:

### Answers to Vocabulary Worksheet (Handout #15)

**1** challenge for cause **2** peremptory challenge

**3** defendant **4** plaintiff

**5** *voir dire* **6** district attorney

**7 criminal case:** defendant is accused of violating the law, arrested and brought to trial by the state. Court determines guilt and punishment, if applicable.

**civil case:** disagreement between two parties brought to court by one of the parties. Court enters judgment for one of the parties.

**8 adversary system:** attorneys for each side represent only their client's (and the law's) interests, acting as a check and balance on each other so that justice is served and each side has an advocate.

## FOLLOW-UP ACTIVITIES:

**1.** Plan a visit to the courthouse, observing jury selection or jury trials.

**2.** Have students research local requirements for juror qualifications and the process used for random selection.

**3.** Have students research local regulations for jury exemption and exclusion.

**4.** Students could debate the advisability of a jury of fewer than 12 members or whether verdicts should be unanimous.

**5.** Organize a student commission to research jury selection reform and report their findings to the class.

**6.** Have students research trial consultants — people ranging from psychologists to cab drivers who advise attorneys in selecting juries.

**7.** Students could compare the selection of juries in other jurisdictions with their own.

*Constitutional Rights Foundation*

# CONTENTS


| | Number of Copies Needed |
|---|---|
| **Before Game Begins:** | |
| Handout #1: The American Jury System | Class set |
| **Day One: Introduction** | |
| Handout #2: *Voir Dire* Procedure | Class set |
| Handout #3: How to Prepare Questions | Class set |
| **Day Two: Activity** | |
| Handout #4: Role Sheet for Judge | 1 |
| Handout #5: Role Sheet for Attorney | 1 for each attorney |
| Handout #6: Role Sheet for Bailiff | 1 |
| Handout #7: Role Sheet for Court Clerk | 1 |
| Handout #8: Role Sheet for Jurors | 1 of each page |
| Handout #9: Role Sheet for Defendant | 1 for each defendant |
| Handout #10: Role Sheet for Plaintiff | 1 for each plaintiff |
| Handout #11: Role Sheet for Observers | 1 for each observer |
| Handout #12: The Courtroom | Class set |
| Handout #13: Criminal and Civil Case | 6 |
| Handout #14: *Voir Dire* Sequence | Class set |
| **Day Four: Debriefing** | |
| Handout #15: Vocabulary Worksheet | Class set |

HANDOUT #1 — Make one copy for each student

# THE AMERICAN JURY SYSTEM

## HISTORY

The modern American jury system can trace its roots back to medieval England. Yet, the jury of medieval England would be unrecognizable when compared with the present jury system of the United States. In its origins, the trial itself was a form of royal inquisition. Trial by ordeal — the use of fire or hot water to test one's innocence — was the accepted means of prying facts from individuals believed to be withholding information. Originally, jurors were not called to court to hear the testimony of witnesses but to be witnesses themselves. Today the American jury consists of a group of people summoned at random from the community and sworn to decide on the facts in dispute at a trial. The jury system has come a long way — from a time in which jurors were called upon to testify about the facts in a case to the present, in which jurors are selected on the basis of their impartiality to the case and the parties involved.

The jury system was transplanted from English soil to the American colonies with the landing of the Pilgrims. Although a basic acceptance of common law existed, there was no uniform development of the jury or of jury selection procedures among the colonies. New states adopted the jury system in their constitutions one by one, but often modified such aspects as the qualifications for jurors and the means of selecting them. During the American Revolution, most state constitutions adopted the right of jury trials in criminal cases. Civil cases, however, were another matter.

## THE CONSTITUTION

When the Constitutional Convention met in Philadelphia in 1787, the delegates assigned the administration of the court system to the judicial branch. There are few rights spelled out in the body of the Constitution. The lack of such protections was widely criticized and led to the first ten amendments outlining a Bill of Rights for citizens. Yet, one of the rights that was clearly spelled out concerned the right to trial by jury in federal cases:

> "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed." (Article III, Section 3)

Those present at the Convention had little acquaintance with the concept of jury trials for many civil matters. For example, in 18th century England the judge alone was generally responsible for decisions on the matter of property rights. A group of delegates to the Convention, spearheaded by Alexander Hamilton, a lawyer, wrote a federal constitution without provision for the right of jury trials in civil actions.

The Bill of Rights, written by James Madison, was added to the Constitution in 1791 at the insistence of the states. It explicitly listed the rights of all citizens under the new federal government. These included the right to a jury trial in criminal and civil cases in federal trials:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." (Sixth Amendment)

> "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of a trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than

according to the rules of the common law." (Seventh Amendment)

Although the original Constitution did not require juries in state trials, the due process and equal protection clauses of the Fourteenth Amendment have been interpreted by the Supreme Court to extend the provisions of the Bill of Rights to each state:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, *without due process of law*; nor deny to any person within its jurisdiction *the equal protection of the laws*." (Fourteenth Amendment, 1868)

Today, there are two kinds of juries. A grand jury, usually composed of 23 jurors, examines evidence before the trial and determines whether there is justification for holding a trial. A petit jury, usually of 12 jurors, listens to the evidence during the trial and decides whether the case against the defendant has been proven sufficiently. Grand juries are appointed and serve for a year at a time, while new petit juries are chosen for each trial.

The process for choosing a petit jury is known as "*voir dire*." (pronounced: vwohr deer) This term comes from two French words –to see and to speak– and means "to speak the truth." Thus, it means to choose a jury by observing and listening carefully to how prospective jurors answer questions posed to them by the judge and attorneys. From the colonial period to the present, there have been significant changes in the use of jury trials in both civil and criminal cases, in the right of trial by jury in misdemeanors and felony cases, and in the area of jury selection. While all states provide for jury trials, they may differ slightly in the selection process. In federal courts and many states, there is an increasing tendency to use judges to conduct *voir dire* examination of jurors. Many people feel that examination by a judge is more expedient and less inclined to be prejudicial.

## A JURY OF ONE'S PEERS

English common law established the concept of a jury of one's peers. Peers are people with the same general background, chosen at random from members of the community. It is generally believed that a jury of one's peers is better able to understand the nature of the circumstances surrounding a criminal or civil matter based on local experience and can empathize with the parties involved. This does not mean that every jury must have representatives of all the economic, social, religious or ethnic groups of the community by quota, but rather court officials cannot exclude any of these groups. On several occasions, the Supreme Court has held that systematically excluding blacks from both grand and petit jury selection, for example, is unconstitutionally discriminatory. As a result, the Court has overturned decisions made by such bodies.

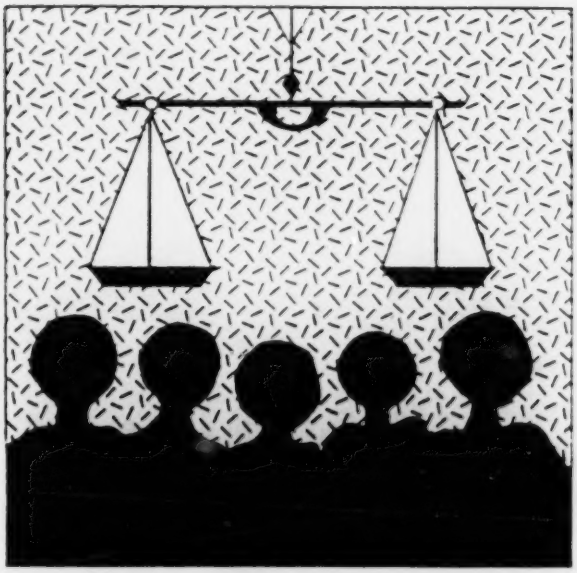
## JUROR QUALIFICATIONS AND EXEMPTIONS

Jurors are chosen at random from the community. They are required to be citizens and residents of the state; 18 years of age or older; in possession of their faculties; and of ordinary intelligence with sufficient knowledge of the English language. At one time, certain groups were systematically excluded from jury service. For example, it was thought that police officers or lawyers might tend to have a built-in bias about a case or would be too influential with fellow jurors. The more exemptions, however, the less the jury reflects the community. Therefore, the number of recognized exemptions has decreased in recent years. Still exempt, however, are convicted felons and anyone concurrently serving on a grand jury. Also note that citizens must not be routinely denied the opportunity for jury service due to a disability, such as immobility, loss of sight or hearing, unless it can be demonstrated that the person is incapable of performing the duties of a juror without prejudice.

Most jurisdictions select jurors from county lists of registered voters. As a result, non-citizens, minors, the homeless, and those people who do not register to vote are often excluded. The fact that a larger proportion of

# HANDOUT #1 — Continued

white middle-class homeowners vote more regularly than do blacks, Chicanos, renters, transients, and poor people may result in an imbalance in the jury box where jurisdictions rely solely on voter registration lists. Some states, to broaden the selection of people, also use driver registration lists from the Department of Motor Vehicles. Even with this method certain citizens will not be included in the pool of potential jurors.



Not everyone in the community is able to serve on jury duty. Jury service requires that a citizen give up a certain amount of time, and the law excuses a person from jury duty if serving would "entail undue hardship on the person or the public served by the person." For example, it is a greater financial burden on the self-employed than on employees whose employers can afford to continue their salaries. While most employers are not required by law to compensate their employees for jury service, many have policies which do pay employees for some period of time. For this reason, exemptions are made for certain people, including the self-employed, parents of small children and people whose occupations require their guaranteed and personal presence, such as teachers, graduate students and doctors.

Serving on a jury is a difficult and demanding task. Yet jurors are in some ways the most important participants in a trial. They are required to make intelligent decisions — sometimes about life and death — without having the opportunity to ask questions themselves. They must rely on information supplied to them by people with opposing interpretations of the facts. It is the unbiased jury which must decide guilt, based on evidence (sometimes very complex and technical) and occasionally recommend punishment. It is the jury that changes the legal system from an adversarial contest into a means of serving justice for the victims, the defendant and the community.

In the next few days, you will have the opportunity to participate in the *voir dire* process of selecting a jury. How can you secure a fair trial for both the defendant and the community? How will you choose a jury of the defendant's peers and, at the same time, use this process to help you win the case?

HANDOUT #2 — Make one copy for each student

# *VOIR DIRE* PROCEDURE

## SELECTING A JURY

Citizens are chosen at random from whatever source is used for juror lists in the county. They are then notified by mail to report to a specific location at a given date and time. When they arrive, they are ushered into a room (sometimes called "the jury pool") with other prospective jurors. From here, groups of prospective jurors will be called to report to the various courtrooms where jury trials are to begin. Individuals may be called right away, or may wait hours or days for a trial in which they are needed. Jury duty generally lasts a minimum of two weeks. However, if the two weeks end in the middle of a trial, a juror generally must complete the trial no matter how long it lasts. Trials may take one day or many months, depending on the nature of the case, so a juror could serve in a single trial, several trials, or might not be selected at all during the two weeks. Always having enough potential jurors at the courthouse saves the court much time.

When a case is ready to go to trial, a group of jurors from the jury pool go to the courtroom. The court clerk draws at random the names of 12 of them (called prospective jurors) and asks them to take seats in the jury box. Prospective jurors are asked to provide background information about themselves and are questioned by the judge and attorneys. The questioning continues until the prosecution and defense (or the plaintiff and defense in a civil case) can agree on a jury of 12 people plus one or more alternates. The alternates will hear the entire case but only participate in the jury process if any of the 12 are unable to finish the trial. Jurors who are excused return to the jury pool and are replaced by other prospective jurors.

## PREJUDICE AND DISCRIMINATION

All human beings are prejudiced. This merely means they have attitudes and values that enable them to have opinions and assist them in making judgments. Indeed, the purpose of an education is to make people more discriminatory — able to choose well among alternatives. Human nature makes it impossible to be completely objective. Our frame of reference — which includes religion, politics, family history, nationality, personal experiences — shapes the way we look at people and events and changes over time. Nevertheless, it is possible to secure an impartial jury that is not biased for or against the defendant and can arrive at a fair and just verdict. Judges and attorneys must determine that the jury can set aside their prejudices and use their discrimination to examine the evidence and decide who is telling the truth. Jurors who are unable to do this should be excluded from the jury.

Most people do not readily admit their prejudices. Therefore, judges and lawyers look for clues that reveal the attitudes and values of prospective jurors. These clues include the answers to certain questions, as well as the person's posture, clothing and demeanor. Lawyers attempt to include those people whose biases will help their case and to exclude those people whose biases will hurt their case. For that reason, it is important that they learn as much as they can about the 12 people who will decide who wins the case. They must ask revealing but not prying questions.

## CHALLENGES

Each attorney will challenge or dismiss any prospective juror who will not be sympathetic to his or her case. There are two ways an attorney may challenge or exclude a prospective juror from serving on a particular jury. A *challenge for cause* means the lawyer has some obvious evidence that the juror may not be able to be objective about the case. This would include an admission of prejudice about the case or the defendant, previous involvement with any of the parties, or opinions that may interfere with reaching a verdict, such as a strong belief about the death penalty in a case involving such a punishment. Each side can use an unlimited number of challenges for cause.

# HANDOUT #2 — Continued

A *peremptory challenge* is an objection for which no reason must be stated. The law limits the number of peremptory challenges each side can use in a trial. Lawyers make peremptory challenges for many reasons. They might include a "gut feeling" about the juror based on the answers to questions, body language, or something else that is not on its face a clear bias but makes the party uncomfortable. These feelings are based on the lawyers' own ideas and instincts. Jurors challenged either for cause or peremptorily will return to the pool and wait to be called for another trial.

## THINGS TO CONSIDER WHEN CHOOSING A JURY

Before we look at factors used in selecting jurors it is important to distinguish between *generalizations*, which tend to be true of members of a given group, and *stereotypes*, which predict behavior based on one characteristic. Generalizations are not always true in each situation, and stereotypes, which exaggerate and distort, prevent one from seeing other possibilities and differences among people.

The following considerations suggest only possibilities and probabilities, not predictions of juror behavior! For each of these factors, the lawyer must decide if there is anything in the case that is relevant to the juror's own experience that might bias the ability to make a fair decision.

Age
Marital status and experience
Family makeup
Occupation — self and family members
Previous experience as party to lawsuit or as juror or a party to or victim of crime
Residence
Ethnic background
Physical appearance, including handicaps
Membership in religious or social organizations

Lawyers must be careful not to offend jurors by their questions or their demeanor. *Voir dire* is also the first time the lawyer will be addressing the jury. The first impression made will create a certain atmosphere under which the remainder of the trial will take place. The lawyer needs to find out information about the jurors, make judgments about them and begin making a positive impression on them as well. It is difficult to successfully accomplish all of these things simultaneously.

HANDOUT #3 — Make one copy for each student

# HOW TO PREPARE EFFECTIVE QUESTIONS

*Voir dire* is the attorneys' first opportunity to communicate with the jury and to begin winning them over. In this assignment, you are an attorney preparing to question prospective jurors. Draw up a list of questions that will aid you in determining jurors' possible prejudices in a criminal or civil case. Open-ended questions reveal more information than "yes-or-no" questions.

Your role in *voir dire* is to discover jurors' attitudes that are either antagonistic or sympathetic toward your side and to establish a rapport with individual jurors. Think about what issues are most relevant. Phrase your question carefully and know why you are asking it. Remember that attitudes are formulated by many things, including family values, experiences and media (especially television). Possible areas for questioning might include the following:

## Criminal cases:

- attitudes toward police, law, punishment
- attitudes about certain kinds of defenses such as self defense or insanity pleas
- experiences with police, courtroom, justice system

## Civil cases:

- attitudes toward corporations, insurance companies, etc
- experiences as stockholder, victim of fraud, etc.

## All cases:

- occupation
- racist or sexist attitudes
- desire to serve and previous jury experience
- group membership (political, MADD, Chamber of Commerce, etc.)
- connections with parties involved in the case, directly or indirectly
- beliefs that may directly/indirectly prejudice the case
- ability to weigh conflicting testimony
- knowledge about case

## Tips:

**1.** Word your questions carefully, but try to compose them conversationally.

**2.** Speak distinctly and listen carefully to the answer, maintaining eye contact. Follow up on any answers that need clarification. Avoid sexist language or any other references that rely on stereotypes and prejudices.

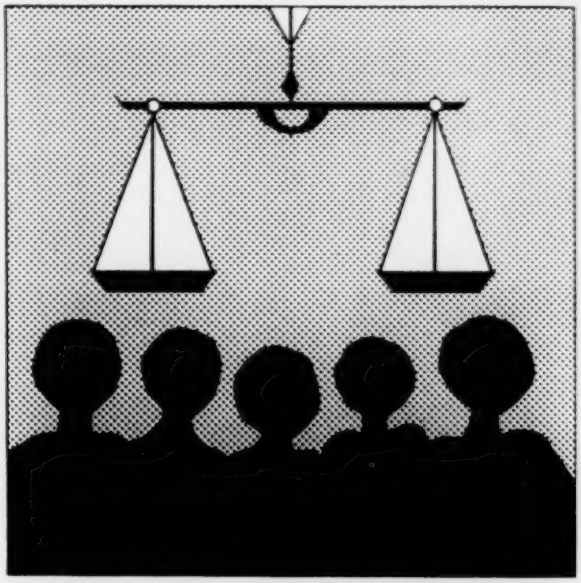
**3.** Do not duplicate questions already asked by the judge or other attorneys.

**4.** When in doubt, word the question so that the juror states explicitly that he or she can be open-minded and apply the law, not personal opinion.

**5.** Where feasible, direct your initial questions collectively to the original group of jurors summoned to the jury box rather than repeating each question to each juror individually. Direct specific questions to individuals to follow up or clarify.

HANDOUT #4 — Make one copy for "Judge"

# ROLE SHEET FOR JUDGE



Your job is to apply the law, insure that the trial is fair and see that the jury is unbiased. You are an impartial referee in the adversary system.

**1.** Study the case so that you understand the issues.

**2.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully, noting each of your responsibilities. This is your courtroom; you are in charge. See that things run smoothly and fairly.

**3.** Call the court to order and announce the name of the case.

**4.** You will begin the *voir dire* questioning of jurors by asking each juror summoned to the jury box to provide information (listed below, a-f) as written on the sign which will be posted in the courtroom.

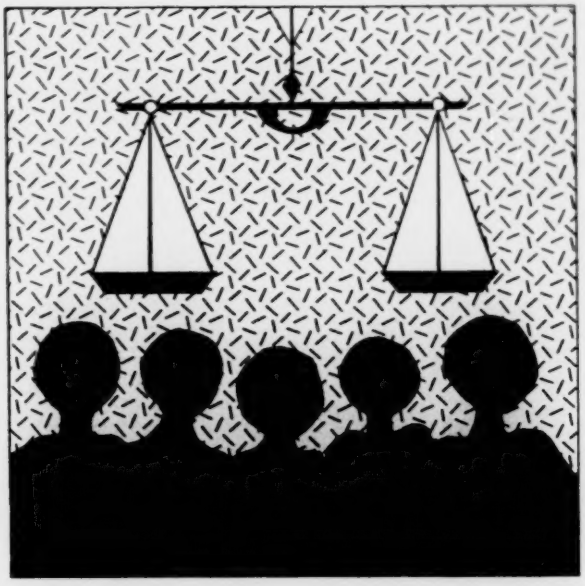
a. Name
b. Area in which the juror resides
c. Marital status
d. Occupation of self and spouse
e. Number of children; ages and occupations
f. Previous jury duty

**Additional questions might include:**
g. Any relatives or friends that know any of the parties in courtroom
h. Any reason the juror cannot render a fair verdict in this case

**5.** If any prospective juror's answer to any of the questions asked in court reveals prejudice or bias inhibiting a fair and impartial trial, you may dismiss that juror. This is a "challenge for cause" and may be done at the suggestion of either attorney or on your own initiative. You may also question the attorney to provide reasons for such a challenge (outside the hearing of the jury) if necessary, to insure that all challenges are justified. (Remember, attorneys' peremptory challenges do not require an explanation, but each side is limited to two during this game.)

HANDOUT #5 — Make one copy for each "Attorney"

# ROLE SHEET FOR ATTORNEY



Your job is to represent your client (whether it is the state or the defendant), obtain a jury that is most likely to decide in favor of your client and win the case.

**1.** Study the case (Handout #13) and become familiar with your client's case and history.

**2.** Determine the relevant issues in jury selection, and, working with your co-counsel (attorneys also on your side), develop questions that will uncover attitudes and prejudices for or against your case. Refer to Handout #3 "How to Prepare Effective Questions" and the list of questions you prepared as homework.

**3.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully, noting each of your responsibilities. Be prepared when it is your turn.

**4.** Attorneys should work together in teams, listening carefully to the answers and preparing follow-up questions. Do not spend too long on any one juror. It may be a good strategy not to ask questions of a prospective juror you think appears to be favorable to your client.

**5.** If you find a juror that is clearly prejudiced against your client, you may challenge for cause. You have an unlimited number of challenges for cause, but the judge may ask you, outside the hearing of the jury, to substantiate the reasons. You also have two "peremptory challenges," which means you can dismiss two people without stating the reason. Use these carefully.



BEST COPY AVAILABLE

## HANDOUT #6 — Make one copy for "Bailiff"

# ROLE SHEET FOR BAILIFF

You are the court attendant and your job is to keep order in the court at all times and execute the judge's orders.

**1.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully, noting each of your responsibilities. Be prepared when it is your turn.

**2.** To call the court to order, you say: "Everyone please be seated and come to order."

**3.** You are charged with maintaining order at all times while court is in session.

## HANDOUT #7 — Make one copy for "Clerk"

# ROLE SHEET FOR COURT CLERK

You are the assistant to the judge. You will administer the oath to the prospective jurors and later swear in the jury when selected.

**1.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully, noting each of your responsibilities. Be prepared when it is your turn.

**2.** You should post the attached card in a prominent place where all jurors can see it from the jury box. This is to assist the judge in doing the *voir dire* examination.

**3.** The oath for prospective jurors is as follows: "Do you solemnly swear (or affirm) collectively that you will well and truly answer the questions that may be put to you regarding your qualifications to serve as a trial juror in the matter now pending before this court?"

**4.** After the jury is agreed upon, administer the following oath: "Will you and each of you well and truly try the matter before this court and render a true verdict according to the evidence?"

Note: [This page should be the sign posted in a prominent place. Printing should be large enough to be read clearly by jurors.]

# Please provide the following information:

1. Name
2. Area in which you reside
3. Marital status
4. Occupation of self and spouse
5. Number of children; ages and occupations
6. Previous jury duty

HANDOUT #8 — Make one copy of each page. If possible, duplicate these pages front and back, and then cut up along the designated line. Students can fill in their chosen names and paper clip the slip with the "badge" side showing onto their clothing.

# JUROR

Name (please print)

# JUROR

Name (please print)

# JUROR

Name (please print)

# JUROR

Name (please print)

# JUROR

Name (please print)

# JUROR

Name (please print)

# HANDOUT #8a— JUROR DESCRIPTIONS

Make one copy of each page. If possible, duplicate these pages front and back, and then cut up along the designated line. Students can fill in their chosen names and paper clip the slip with the "badge" side showing onto their clothing.

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Insurance company executive

Description: 24-year-old black female
College graduate

Family: Husband is doctor

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Radio dispatcher for police department

Description: 27-year-old Hispanic female
Feminist

Family: Husband is printer; one child, age 5

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Stockbroker

Description: 29-year-old white female
Wealthy

Family: Husband is aerospace engineer
Father is Chief of Police
No children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Housewife

Description: 42-year-old white female
Active in local chapter of MADD after neighbor killed by drunk driver
A volunteer in many local charities

Family: Husband owns auto parts store; three children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: U.S. Army, retired

Description: 70-year-old white male
Graduated from West Point
No previous jury experience

Family: Widower; one son in Air Force

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Novelist

Description: 41-year-old white male
Author of bestseller *The Bad and the Bold*
Travels frequently

Family: Wife works for Welcome Inn Hotels; no children

---

# HANDOUT #8b– JUROR DESCRIPTIONS

Make one copy of each page. If possible, duplicate these pages front and back, and then cut up along the designated line. Students can fill in their chosen names and paper clip the slip with the "badge" side showing onto their clothing.

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Mechanic

Description: 38-year-old white male
Works at Sam Williams Ford dealership
Organized neighborhood to lower property taxes through election initiative
Vocal about "welfare chiselers"

Family: Wife is secretary; one son

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Newspaper reporter

Description: 24-year-old black female
College graduate
Writes City Features section; covers local trials
Atheist

Family: Single

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Hospital Administrator

Description: 38-year-old Hispanic male
Sees what happens to victims of violent crime every day and is tired of seeing criminals getting off too easy

Family: Wife is nurse
One daughter

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Supermarket checker

Description: 44-year-old white male
Member of supermarket workers union
Arrested for free speech activities in anti-Vietnam demonstrations 25 years ago; case dismissed

Family: Divorced; two children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Church secretary

Description: 35-year-old white female
College graduate

Family: Husband is Social Security administrator

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: School bus driver

Description: 35-year-old Hispanic female
Foreman of jury in a criminal matter
11th grade education

Family: Single

---

BEST COPY AVAILABLE

# HANDOUT #8c— JUROR DESCRIPTIONS

Make one copy of each page. If possible, duplicate these pages front and back, and then cut up along the designated line. Students can fill in their chosen names and paper clip the slip with the "badge" side showing onto their clothing.

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Housewife

Description: 55-year-old white female
college graduate; wealthy
president of local garden club

Family: Husband is president of Unimac,
major software corporation;
three children; son is a lawyer

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Retired school teacher

Description 65-year-old white female
Taught American History
Member (not active) of Gray Panthers,
a senior citizens' rights organization

Family: Widowed; four children and
five grandchildren

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Post Office worker, retired

Description: 67-year-old black male
High school education
Active in civil rights demonstrations in
1960s and anti-apartheid movement

Family: Wife is a retired department store
sales clerk

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: City planner

Description: 48-year-old Hispanic male
Very religious
Ran for School Board two years ago
and lost

Family: Wife is public defender
Three children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Unemployed

Description: 20-year-old black female
Previously employed as salesperson
One year college
Brother arrested for cocaine possession
— entered drug rehabilitation
program where he is recovering

Family: Divorced

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Office worker for federal
government in Passport Department

Description: 36-year-old black male
Previous jury experience: once before
— not accepted for two different
trials (no reason given); was on jury
two weeks ago, but charges dropped
and jury dismissed; wants to serve

Family: Married; wife very ill; no children

---



BEST COPY AVAILABLE

# HANDOUT #8d— JUROR DESCRIPTIONS

Make one copy of each page. If possible, duplicate these pages front and back, and then cut up along the designated line. Students can fill in their chosen names and paper clip the slip with the "badge" side showing onto their clothing.

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Truck driver

Description: 41-year-old black male
Active in Teamsters' Union — elected shop steward

Family: Wife is housewife; two children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Unemployed actor

Description: 30-year-old black male
Two years college

Family: Single
Victim of house burglary two years ago — lost $3,000 worth of goods

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: College student

Description: 19-year-old Asian-American male
Majoring in electricial engineering
Active in campus science and technology club and Asian Students Association.

Family: Parents own and operate small neighborhood supermarket, which has been robbed twice in the last year.
Three younger brothers and sisters.

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Health Worker with AIDS patients

Description: 39-year-old white female
Masters degree in public health
Victim of sexual assault 18 years ago
No prior jury service.

Family: Unmarried, but living in a 6-year relationship with a man who is a social worker
No children

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: University professor

Description: 53-year-old white male, Ph.D.
University teacher 24 years
Active in community, but recently feels "burnt out"
3 previous times as criminal case juror.

Family: Wife is librarian; one son in high school and one daughter in college

---

You must convince the class that you are the person described on your card. Write in your name and study the biography carefully so that you know it without referring to it. These cards will be worn as a badge at the beginning of the *voir dire* process. Be sure to create answers in advance to provide the information on the card posted in the courtroom. Answer the questions of the judge and attorneys according to what is written here or what that person should know. Give the person a real name and personality, but do not say anything that contradicts this information.

Name: Occupation: Construction worker

Description: 41-year-old white male with partial Native American background
Currently on long-term disability
Wants to serve because he's "bored with hanging around the house."

Family: Wife is unemployed; one married son with baby and a daughter in high school

---



BEST COPY AVAILABLE

## HANDOUT #9 — Make one copy for defendant (Civil or Criminal)

# ROLE SHEET FOR DEFENDANT

You are on trial, if this is a criminal case, or are being sued, if this is a civil case. You want to win the case to avoid a serious punishment or fine (criminal) or paying monetary damages (civil). To achieve this, you want to get the most sympathetic jury possible.

**1.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully so that you understand all procedures. You should also study Handout #13 carefully. This contains information about your case.

**2.** Assist your attorneys in developing questions, suggesting what the key issues are in your defense and devising ways of finding hostile or sympathetic jurors. Refer to Handout #3 "How to Prepare Effective Questions" and the list of questions you developed as homework.

**3.** Listen carefully to the answers given by the jurors, and suggest follow-up questions to your attorneys where pertinent.

**4.** Remember, it is your attorneys' job to represent you at all times. You are allowed to speak to the judge only when directly questioned. You do not speak directly to the opposing attorneys nor any of the jurors during *voir dire*. Failure to obey will result in a contempt of court citation.

## HANDOUT #10 — Make one copy for plaintiff (Civil case only)

# ROLE SHEET FOR PLAINTIFF

You are bringing suit in a civil case against the defendant. You want to win the case, which means a financial judgment in your favor. To do this, you want to get the most sympathetic jury possible.

**1.** You will be given a copy of the "*Voir Dire* Sequence" (Handout #14). Read it carefully so that you understand all procedures. You should also study Handout #13 carefully. This contains information about your case.

**2.** Assist your attorneys in developing questions, suggesting what the key issues are in your case and devising ways of finding the hostile or sympathetic jurors. Refer to Handout #3 "How to Prepare Effective Questions" and the list of questions you developed as homework.

**3.** Listen carefully to the answers given by the jurors, and suggest follow-up questions to your attorneys where pertinent.

**4.** Remember, it is your attorneys' job to represent you at all times. You are allowed to speak to the judge only when directly questioned. You do not speak directly to the opposing attorneys nor any of the jurors during *voir dire*. Failure to obey will result in a contempt of court citation.

HANDOUT #11 — Make one copy for each observer

# OBSERVER EVALUATION FORM

As part of the audience in the courtroom, you will be in a position to observe all of the participants. After the jury has been impaneled, it is your job to evaluate what has happened. This checklist should help you focus on the key issues. Jot down notes where appropriate, to help you remember examples.

How believable were the following:

judge _____

lawyers _____

_____

defendant/plaintiff _____

jurors _____

_____

_____

others _____

Why were they believable? _____

_____

In what ways were they unbelievable? _____

_____

Good questions of jurors included: _____

_____

Ineffective questions included: _____

_____

What other questions might have been asked? _____

_____

_____

Was a good jury chosen? _____ Why/why not? _____

What problems will this jury have? _____

Who will win the case? _____

HANDOUT #12 — Make one copy for each student

# THE COURTROOM

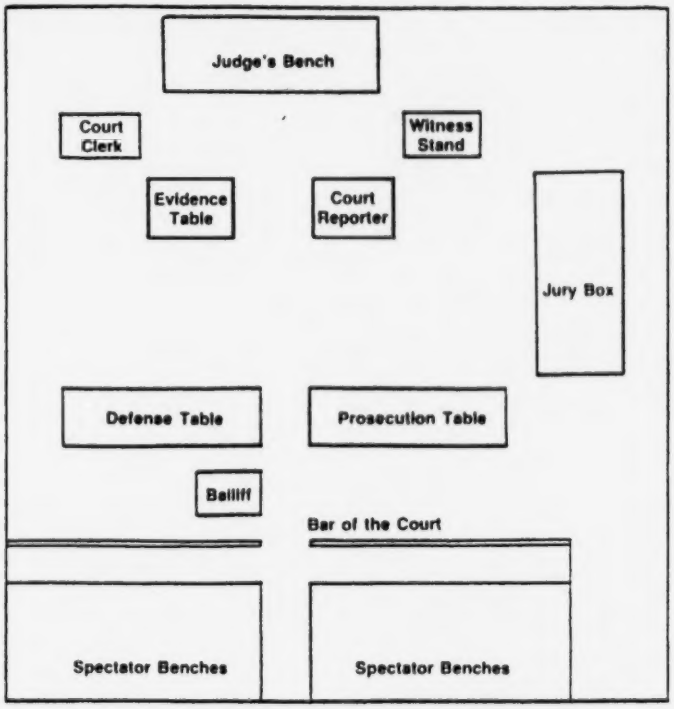



Diagram of court. (Courtrooms may be reversed, but relative positions are the same.)

**A Clerk** — assistant to the judge; administers oath to jurors and witnesses; keeps all official papers and marks evidence when it is introduced during trial

**B Judge** — decides issues of law; insures that the trial is fair and the jury unbiased; rules on objections; pronounces sentence in a criminal case

**C* Witness** — testifies as to what he/she knows or saw

**D* Court Reporter** — takes stenographer's notes of everything said during the trial and prepares an official transcript in the event of an appeal

**E Bailiff** — maintains order in the court at all times; executes orders of the judge

**F Defense** — represents the defendant's interests at all times; job is to win the case

**Dedendant** — the person on trial in a criminal case or being sued in a civil case; innocent until proven guilty

**G Prosecution** — represents the state in a criminal case; has the burden of proof; job is to convict the defendant

**Plaintiff** — (civil case) the person bringing suit against the defendant; has the burden of proof

**H Jury** — decides issues of fact; in a criminal case determines if prosecution has proven case beyond a reasonable doubt (defendant is guilty) or prosecution failed to prove case (not guilty); in a civil case decides which side was more convincing

**I Observers** — members of the public and witnesses before/after testifying; 6th Amendment guarantees the right to a public trial

*roles not included in *We the Jury*

BEST COPY AVAILABLE

HANDOUT #13 — Make five copies of this criminal case *OR* six copies of the civil case.
Criminal case should be distributed to: Judge, Attorneys, Court Clerk, Defendant

## CRIMINAL CASE: People v. Walker

On the evening of June 16, Ralph Walker was arrested for robbery, a felony. The victim, Mary Gardiner, was confronted by a man wearing dark slacks and a beige jacket while she was on her way home from a political meeting. Threatening to "hurt her real bad," the man demanded her money and Gardiner turned her wallet over to him. The police found Walker a few blocks away. His clothing matched the description, and Gardiner's wallet was in his possession. He says he found the wallet on the street. The victim later identified him in a police lineup and said that even though it was dark that night, "I'm sure he's the guy."

*Robbery* is defined as the taking of property from a person against his or her will through violence or threat of violence.

Mary Gardiner is a 60-year-old black woman living on Social Security. She is a member of the Socialist party, and is a volunteer counselor for "Victims for Victims," which aids victims of violent crime.

Ralph Walker is a 35-year-old white salesman, currently unemployed. He has a high school education.

---

Make six copies of this civil case *OR* five copies of the criminal case.
Civil case should be distributed to:
Judge, Attorneys, Court Clerk, Defendant, Plaintiff.

## CIVIL CASE: Woodson v. Collins

Peter Woodson is suing Monty Collins, General Manager of South Side Auto, in a product liability case. Woodson bought a new car from South Side Auto, which is owned by North American Motors, and soon discovered that the brakes didn't work right. He called to have them fixed, but the dealer said he was "too busy to look at them until the end of the week." Fearing that he shouldn't drive the car with bad brakes, Woodson repaired them himself, since he used to work as an auto mechanic. They seemed to work all right after that. A month later, however, while he was driving around a curve within the speed limit, he put his foot on the brakes, but they didn't take. The car went off the road and hit a tree, injuring the defendant. He is claiming damages of $500,000, for medical bills, property damage, pain and emotional suffering. The car was examined by the plaintiff's engineer, who says there was a defect in the design of the brakes, creating "a time bomb just waiting to go off." The defendant, however, says that no one else has complained about this problem. North American Motor's engineers say there is nothing wrong with the brake design unless the defendant damaged them somehow. Furthermore, the company cannot be responsible for unauthorized work done by the plaintiff, and Woodson's decision to do his own repairs invalidates any warranty.

Peter Woodson is a 35-year-old bricklayer with a wife and two children. He suffered a whiplash in the accident in addition to the total loss of his automobile. He is just grateful that his children were not in the car at the time. He feels it is important to make a public statement with this lawsuit.

Monty Collins, a widower, is a 45-year-old junior college graduate, supporting three children. He has worked for North American Motors for 18 years, working his way up from salesman to general manager of the South Side Auto dealership.

North American Motors is a multi-national corporation listed among the Fortune 500. It was founded in 1910 by "robber baron" Phideas T. Squint but has been a public corporation owned by thousands of shareholders since 1940. Woodson has a separate lawsuit pending against the company.

## HANDOUT #14 — Make seven copies: Judge, Attorneys, Court Clerk, Bailiff

# *VOIR DIRE* SEQUENCE

You will be directing the activity by following these directions. Read this page carefully in advance and underline everything you are expected to do so that you will be ready when it is your turn.

**1. Bailiff** collects juror cards, places them in a box and hands the box to the **court clerk**. Clerk then mixes them up in the box so that names will be called at random.

**2. Judge** welcomes prospective jurors and tells them to take a seat in the jury box as their names are called. All other jurors are to remain seated in the audience until they are called or dismissed.

**3. Bailiff** calls court to order.

**4. Clerk** administers the oath to the prospective jurors. Clerk then calls the names of 14 prospective jurors selected at random from the box. As each name is called, the juror collects that juror card and a paper clip from the clerk and takes a seat in the jury box. The card should then be worn as a badge.

**5. Lawyers** should write down the names of the jurors as they are called and cross them off as they are excused. (Use a diagram showing the positions of the jurors in the jury box.) Keep track of how many challenges both sides have used.

**6. Jurors** should provide the information listed on the sign posted by the **clerk**. The **judge** may ask additional questions of the jurors and excuse those who have proper reasons for not being able to stay and serve for the duration of the trial. If any jurors are dismissed, the clerk should pull more names so that there will be 12 jurors in the jury box and two alternates. Begin with Juror #1 and continue until all 14 have answered.

**7. Attorneys** now take turns questioning the jurors. In a criminal case, the defense starts, followed by the prosecution. In a civil case, the plaintiff's attorney begins. You may dismiss any juror for cause, but be prepared to explain your reasons outside the hearing of the jury. If the challenge is granted, state "Your honor, please excuse juror number ____ for cause." When you have no further challenges for cause say: "The state/plaintiff/defense passes for cause on juror(s) number _____." You don't have to state a reason.

**8.** Excused jurors return to the audience. **Clerk** then calls additional names to take their places in the jury box. New jurors provide the information requested on the sign and are asked if they have listened to all the questions and if they would have answered anything differently.

**9.** After counsel for all parties (**attorneys**) have approved the same 12 jurors or used up all their peremptory challenges, both sides say to the judge that the jury is accepted as constituted. The jury is then sworn in by the **clerk**.

**10.** The **judge** should tell the two jurors at the end of the jury box closest to the audience that they will serve as alternates. They will listen to the entire case but will not participate in jury deliberations unless one or two of the regular jurors is unable to complete the trial. The judge also warns jurors not to discuss the case with anyone, including fellow jurors, until deliberations begin.

HANDOUT #15 — Make one copy for each student

# VOCABULARY WORKSHEET

Supply the term that matches the following description:

**1.** To excuse a particular juror because of prejudice or personal involvement in the case is called a

_____.

**2.** Dismissing a particular juror without the need for stating a reason is called a _____.

**3.** The person accused of a crime or the person being sued is the _____.

**4.** One who files a civil suit (brings the case to court) to get a judgment against another is the _____

_____.

**5.** The examination of prospective jurors by the court or by the attorneys for each side is known as

_____.

**6.** The attorney representing the state's interests in a criminal case is the _____.

Short Answer:

**7.** What is the difference between a criminal case and a civil case?

**8.** What is the adversary system?